IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.979 OF 2003

Chandralok C.H.S. .. Petitioner
V/s
B.M.C. & Ors. .. Respondents

Mr.V.S.Kapase for the Petitioner.
Mrs.N.V.Sanglikar for the Respondents.

CORAM: F.I.REBELLO, &
S.P.KUKDAY, JJ.

DATE : 06.04.2005.

P.C.:

1. From the affidavit of Sanjaykumar Shantaram Bhujbal in paragraph No.5 it is clear that the structures in respect of which the petition has been filed and the complaint has been made by the petitioners to the Respondents are in existence prior to 1.1.1995. The said structures have been shown in the lay out plan approved for construction and have not been counted for FSI. It is the contention of the Respondents that considering the Government policy they cannot remove the structure. It is not possible for us to countenance the stand of the Municipal Corporation that in a private land when illegal construction has come up they can rely on the Government policy to contend that the structures being prior to 1.1.1995 they will not take any action.

2. However, on the facts of the present case, as the petitioners themselves have not moved to protect their property, we do not think that this is a fit case to

exercise the writ jurisdiction. It will be open to the petitioners to take out appropriate proceedings including a civil suit for removal of the said structures.

3. With the above observations, Petition stands disposed of. No order as to costs.

(F.I.REBELLO, J.)

(S.P.KUKDAY, J.)